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DISTRICT SECRETARY'S
 OFFICE

Name: First, Middle, Last Steve Foster	Race: African American	Date of Birth: 07/10/1988
Address Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621	Home Phone: (510) 839-5200	Work Phone:
Person/Supervisor Receiving Claim: BART District Secretary	Badge #:	Date:

CALIFORNIA STATE CLAIM FORM

Location of incident:

1365 Treat Blvd, Walnut Creek, CA 94597

Identity of involved personnel: BART Officer D. McCormick, and Officer Vallejo

Badge No.	Name/Vehicle No., etc. Unknown	Sex	Race
<i>Officer. D. McCormick; Officer Vallejo; Additional Unknown Officers</i>			
Narrative of incident: See Attachment			
Were you injured? See Attachment			
Witness names: (First, Middle, Last) <i>Unknown</i>	Address:	Phone:	

I have read and understood this statement, which I have made of my own free will, and the facts contained therein are true and correct to the best of my knowledge. Oakland, CA, November 13, 2019

Claimant's Signature (Claimant's Attorney/Agent): John L. Burris



ATTACHMENT – CALIFORNIA TORT CLAIM

Claimant objects to your Claim Form because it requires information which constitutes an invasion of the Claimant's privacy. Moreover, the information is not required to be provided by the Claimant under California Government Code Section 910. For example, California Government Code Section 910 does not require that the Claimants provide their home and work numbers, driver's license number, date of birth, auto insurance name and policy number, a diagram of the location of the incident, any statements by the Claimants as to their reasons "for believing the City is liable for your damages, "or a description" of all damages which you believe you have incurred as a result of the incident." For the purposes of this document "CLAIMANT" means the individual claimant, claimants plural, and all plaintiffs and parties in interest represented by the LAW OFFICES OF JOHN BURRIS. Therefore, Claimant submits the following information in support of his/her Claim pursuant to Government Code Section 910:

CLAIMANT'S NAME: Steve Foster

ADDRESS TO WHICH ALL NOTICES ARE TO BE SENT: Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621.

CLAIMANT TELEPHONE NUMBERS: (510) 839-5200

DATE AND TIME OF INCIDENT: November 4, 2019

LOCATION OF INCIDENT: 1365 Treat Blvd, Walnut Creek, CA 94597

THE FOLLOWING PROVIDES A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY, DAMAGES OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF PRESENTATION OF THE CLAIM" AND "THE NAME OR NAMES OF THE PUBLIC EMPLOYEE OR EMPLOYEES CAUSING THE INJURY, DAMAGES, OR LOSS, IF KNOWN: [Per Government Code Section 910]. For the purposes of this claim, "AGENCY" is defined by and refers to the municipal, county, or state entity, which governs Controller's Office, Claims Division.

DESCRIPTION OF INCIDENT:

The incident took place on November 4, 2019 at 8:00 a.m. The location was Bay Area Rapid Transit, 1365 Treat Blvd, Walnut Creek, CA 94597. Bay Area Rapid Transit (BART). Steve Foster stood on the platform of Pleasant Hill BART station. Foster ate a sandwich while waiting for his train to arrive. Officer D. McCormick selectively detained Foster, who is black. It must be noted that Officers typically do not enforce the "No Eating" rule at BART stations. In fact, BART has a café located within the Pleasant Hill Station. Further, the Pleasant Hill Station lacks proper signage to inform BART patrons that eating is not allowed.

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Initially, Officer McCormick sought a drunk woman. However, upon seeing Foster, Officer McCormick exclaimed, "You can't eat on BART." Foster stepped back and stated "I will be done before I get on the train." Foster put on his backpack and attempted to enter the line to board the train. However, McCormick grabbed Foster's backpack. McCormick stated "I'm citing you. You are not free to go. Give me your name or you are going to jail." An exchange followed, wherein Foster attempted to plead his innocence. Later Officer Vallejo approached and assisted with handcuffing Mr. Foster. A group of approximately four officers escorted Foster from the platform in front of the throngs of morning commuters. The officers falsely stated that Foster resisted arrest. At one point, Vallejo misrepresented that Foster matched the description of someone causing a disturbance. Officers then escorted Foster to a private room at the station. The officers searched Foster's belongings. The search did not yield contraband or weapons. The detaining officers referred to Foster with names like "stupid" and "idiot". Finally, officer McCormick cited Mr. Foster for eating at the station. Foster was released after being handcuffed and detained for approximately one hour. Bart General Manager, Bob Powers, apologized publicly. However, his apology misrepresented Foster's actions.

As a result of the incident, Foster missed work. Foster also experienced emotional distress and humiliation. Bystander witnesses published recordings of the incident on Youtube. The recordings went viral.

DESCRIPTION OF CLAIM:

Claimant, on information and belief, alleges that Bay Area Rapid Transit officers racially profiled Claimant. Claimant further alleges that Bay Area Rapid Transit officers selectively detained Claimant based on his race.

Claimant alleges that the conduct of individual employees, agents, and/or servants of AGENCY constitute State statutory violations, which might include but are not limited to assault, battery, false imprisonment, negligence, negligent hiring, intentional infliction of emotional distress, negligent infliction of emotional distress, and state civil rights.

Claimant alleges those individual employees, agents and/or servants of AGENCY are responsible for Claimant's injuries, and acts and/or omissions committed within the course or scope of employment under the theory of respondeat superior. Respondeat superior liability includes but is not limited to, negligent training, supervision, control and/or discipline. Individual employees, agents, and/or servants of the AGENCY, include but are not limited to, the chief of police, sheriff, or an individual of comparable title, in charge of law enforcement for AGENCY, and DOES 1-100, and/or each of them, individually and/or while acting in concert with one another.

Claimant alleges the appropriate offenses listed below.

Claimant, on information and belief, alleges that Bay Area Rapid Transit patrons routinely eat and drink on BART platforms and trains without repercussions, or being chastised by BART

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police. Claimant is unaware of anyone being stopped or chastised by Bay Area Rapid Transit police for eating or drinking on BART.

Claimant, on information and belief, alleges that Bay Area Rapid Transit officers used excessive force when they unnecessarily handcuffed Claimant.

Claimant alleges that assault included, but was not limited to, conduct causing claimant to reasonably fear a harmful offensive touching upon claimant's person.

Claimant alleges that battery included, but was not limited to, conduct resulting in a harmful offensive touching upon claimant's person in a manner foreseeable likely to cause injury.

Claimant alleges that false imprisonment included, but was not limited to, acts or omissions causing claimant to be confined or restricted to an area without means of escape while claimant was aware of the confinement.

Claimant alleges that negligence included, but was not limited to, breach of duty upon failing to exercise due care by placing claimant at risk of serious physical injury.

Claimant alleges that negligent hiring included, but was not limited to, breach of duty upon failing to exercise due care by hiring individuals likely to cause physical injury to citizens while acting under color of law in an official capacity.

Claimant alleges that negligent infliction of emotional distress included, but was not limited to, the failure to use reasonable care to avoid causing emotional distress to another individual. The negligent conduct resulted in Claimants' physical injuries.

Claimant alleges that intentional infliction of emotional distress included, but was not limited to, outrageous acts or omissions with the intent to causing emotional distress to another individual. The intentional conduct resulted in Claimants' physical injuries.

Claimants will allege other causes of action subject to continuing discovery.

DESCRIBE INJURY OR DAMAGE:

Claimant has, or may have in the future, claims for general damages, including, but not limited to, claims for pain, suffering and emotional distress in amounts to be determined according to proof.

Claimant may have and/or may continue to have in the future, claims for special damages, including, but not limited to, claims for medical and related expenses, lost wages, damage to career, damage to educational pursuits, damage to property and/or other special damages in amounts to be determined according to proof.

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Claimant may have, and/or may continue to have in the future, damages for permanent mental injuries, permanent mental scarring and/or other psychological disabilities in an amount according to proof.

NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR
DAMAGE: See description of the incident, above.

DEMAND FOR PRESERVATION OF EVIDENCE:

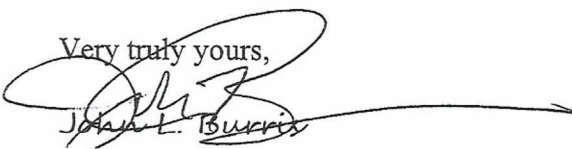
Claimant does hereby demand that AGENCY including, but not limited to, the appropriate city or county law enforcement agency, its employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible materials which relate in any manner whatsoever to the subject matter of this Claim, including until the completion of any and all civil and/or criminal litigation arising from the events which are the subject matter of this Claim. This demand for preservation of evidence includes, but is not limited to, a demand that all public safety entities preserve all tapes, logs and/or other tangible materials of any kind until the completion of any and all civil and criminal litigation arising from the subject matter of this claim.

AMOUNT OF CLAIM:

This claim is in excess of \$25,000. Jurisdiction is designated as "unlimited" and jurisdiction would be in the United States District Court and/or Superior Court of the State of California.

DATED: November 13, 2019

Very truly yours,



John L. Burris

The Law Offices of John L. Burris